

Applicants: Albert et al.

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prejudice by the present Amendment. Upon entry of the present Amendment, claims 1-3, 5-7, 9, 12-39, 92, 94, and 98-101 are pending and presented for reconsideration. Applicants respectfully submit that no new matter is introduced by the present Amendment. A marked-up copy of the amended claims, and a clean copy of all pending claims, as amended herein, are attached.

Claim 1 is amended to incorporate all the limitations recited in the originally filed claims 4, 8, 10, and 11. Claims 4, 8, 10, and 11 are canceled. Accordingly, claims 5-7, 9, and 12-22 are amended to depend from amended claim 1 whereas each of them originally depended from either claim 4 or claim 8. Claim 23 is amended to recite that the claimed layer of material is associated with a film before a lamination procedure of the film is completed. Claim 24 is amended to recite that the claimed layer of material is associated with a rear substrate before a lamination procedure of the film is completed. Support for amendments to both claims can be found in the Specification at, for example, page 47, lines 6-20. Originally filed claims 6, 17, 35 and 36 are rewritten in independent form as new claims 98, 99, 100, and 101 respectively. No new matter is introduced through the new claims.

In the Office Action, claims 92 and 94 were allowed, claims 6, 11, 17, 35, and 36 were objected to, and the rest of the claims under consideration were rejected.

Rejections Under 35 U.S.C. § 112

Claims 23 and 24 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office Action states:

[I]t is unclear when this association [from claim language “initially associated with” in both claims] occurs in this device claim, and whether or not the association must be maintained in order to meet the claim. Further, there is no indication how the layer of material is “initially associated with” the device of the claim.

Office Action, section 7.

Claim 23 is amended to recite that the claimed layer of material is associated with a film before a lamination procedure of the film is completed. Support of the amendment can be found in the Specification at, for example, page 47, lines 6-9, where it states:

The additional layer of material 46 can be initially coated onto the film 40 (*i.e.*, the rear of the capsules) or onto the rear substrate 48, before the lamination procedure, or the layer 46 can be a hotmelt adhesive sheet (which can be thermoplastic or thermoset) introduced between the film and rear substrate during the lamination procedure.

The amended claim 23 recites that the association between the layer of material and the film occurs before the lamination of the film is completed. The amended claim 23 defines the patentable subject matter with a reasonable degree of particularity and distinctness and therefore overcomes the rejection of indefiniteness under 35 U.S.C. § 112, second paragraph. See MPEP 2173.02. Since the amended claim 23 is definite without having to recite whether the association must be maintained or not, Applicants submit that the amended claim 23 covers both cases. Applicants further submit that the use of the word “associated” provides a reasonable degree of particularity and distinctness without having to recite how the association is carried out.

Claim 24 is amended with the same limitation. For reasons similar to the ones described above, the amended claim 24 is definite under 35 U.S.C. § 112, second paragraph.

In light of the present Amendment, Applicants respectfully request that all rejection under 35 U.S.C. § 112, second paragraph, be reconsidered and withdrawn.

Rejections Under 35 U.S.C. § 102

1. Claims 1-5, 7-10, 12-16, 22-26, 32, 33, 37-40, 93, and 95-97 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,130,774 to Albert et al. (hereinafter "Albert").

Of these rejected claims, claims 1, 40, 93, and 95-97 were independent claims and claims 2-5, 7-10, 12-16, 22-26, 32, 33, and 37-39 depended from claim 1. Claims 4, 8, 10, 40, 93, and 95-97 are canceled by the present Amendment, rendering rejections over these claims moot. Claim 1 is amended to incorporate all the limitations recited in the originally filed claim 11 which has been indicated in the Office Action as containing allowable subject matter. Therefore, amended claim 1 is originally filed claim 11 rewritten in independent form and hence allowable. Applicants further submit that claims 2, 3, 5, 7, 9, 12-16, 22-26, 32, 33, and 37-39, some of which are amended to have the correct dependency, are also allowable as dependent claims of amended claim 1.

2. Claims 1-4, 8, 18, and 22 were rejected under 35 U.S.C. §102 (e) as being anticipated by U.S. Pat. No. 6,144,361 to Gordon II, et al.

Of these rejected claims, claim 1 was an independent claim and claims 2-4, 8, 18, and 22 depended from claim 1. Claims 4 and 8 are canceled by the present Amendment, rendering rejections over them moot. As described above, allowable claim 11 has been rewritten in independent form as amended claim 1. Therefore, amended claim 1 and its dependent claims 2, 3, 18, and 22 are allowable over the cited reference.

In light of the present Amendment, Applicants respectfully submit that that all rejections under 35 U.S.C. § 102 have been overcome or moot, and request the rejections be reconsidered and withdrawn.

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Rejections Under 35 U.S.C. § 103

Claims 19-21, 27-31, and 34 were rejected under 35 U.S.C. §103(a) as being unpatentably obvious over Albert.

All of these claims depended from claim 1. As described above, allowable claim 11 has been rewritten in independent form as amended claim 1, and claims 19-21, 27-31, and 34, some of which are amended to have the correct dependency, now depend from amended claim 1. Since amended claim 1 is allowable, i.e., non-obvious under § 103, its dependent claims 19-21, 27-31, and 34 must also be non-obvious.

In light of the present Amendment, Applicants respectfully submit that all rejections under 35 U.S.C. § 103 have been overcome, and request the rejections be reconsidered and withdrawn.

New Claims

Originally filed claims 6, 17, 35 and 36 are rewritten in independent form as new claims 98, 99, 100, and 101 respectively. The Examiner has indicated in the Office Action that originally filed claims 6, 17, 35, and 36 would be allowable if rewritten in independent form.

SUMMARY

Upon entry of the present Amendment, claims 1-3, 5-7, 9, 12-39, 92, 94, and 98-101 are pending and presented for reconsideration. Applicants respectfully submit that no new matter is introduced by the present Amendment.

Applicants request that the Examiner reconsider the application and claims in light of the foregoing Amendment and Response, and respectfully submit that all the pending claims, as amended, are in condition for allowance. If, in the Examiner's opinion, a telephonic interview

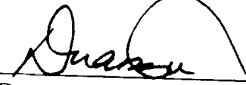
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would expedite the favorable prosecution of the present application, the undersigned attorney would welcome the opportunity to discuss any outstanding issues, and to work with the Examiner toward placing the application in condition for allowance.

Applicants believe that no additional fees are necessitated by the present Amendment. However, in the event that any additional fees are due, the Commissioner is hereby authorized to charge any such fees to Attorney's Deposit Account No. 20-0531.

Respectfully submitted,

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Reg. No. (Limited Recognition
Under CFR 10.9(b))
Tel. No. (617) 248-7808
Fax No. (617) 248-7100



Duan Wu
Attorney for Applicants
Testa, Hurwitz, & Thibault, LLP
High Street Tower
125 High Street
Boston, MA 02110

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